

Creating a Guardianship Resource Board

SB 103 by Moncrief (Naishtat)

DIGEST: SB 103 would have created a Guardianship Resource Board to govern a nonprofit center that would develop a state plan to ensure that people who need guardians receive assistance, to consult with local governments and nonprofit organizations on the development of guardianship programs and to offer guardian training and other information and assistance. The board would have been composed of seven members appointed by the governor, two members appointed by the presiding judge of the statutory probate courts and five non-voting ex-officio members.

SB 103 would have also established a community trust in the form of a pooled income trust made up of contributions on behalf of the trust's beneficiaries (disabled persons who have had full guardianships established over their estates and who have qualified as members of the community trust).

GOVERNOR'S REASON FOR VETO: "Senate Bill 103 creates yet another governmental entity; this one to address difficulties in providing citizens access to the guardianship services needed by Texas families. Rather than improving the guardianship process, this bill complicates the existing system."

RESPONSE: Sen. Mike Moncrief, the author of SB 103, said: "I am really shocked that the governor would veto this legislation. This bill represented the best combination of Democratic and Republican ideals: government response to a social need through a private organization dedicated to encouraging local solutions. If the attitude is to 'give it to a government agency to do,' then the governor and his staff are only giving lip service to the ideal of less government. I prefer to think that the governor's staff didn't do their homework as opposed to believing that the governor is blind to the needs of these vulnerable citizens."

"I know that the people who have worked so diligently over the past four years to make this happen will share my frustration with the governor and his apparent disregard for the well-being of some of the most vulnerable Texans — those who are unable to make even the most basic of everyday decisions for themselves."

Rep. Elliott Naishtat, the House sponsor of SB 103, said: "This bill was intended to benefit the 25,000 to 30,000 incapacitated people in Texas who desperately need guardianship services. Endorsed by over 30 groups including the Disability Policy Commission, Senior Advisory Coalition and Silver-Haired Legislature, SB 103 would have authorized creation of a private nonprofit corporation to assist cities and counties in developing guardianship programs. Furthermore, this legislation would have established an innovative funding mechanism that maximizes the use of private dollars and minimizes reliance on state funds.

"In his veto message, the governor said that the bill created 'yet another government entity,' implying that a huge, new bureaucratic agency would be created. This is not the case. While a new entity would be created, the sole purpose of the Guardianship Resource Board is to establish and serve as the governing body for the nonprofit guardianship corporation. The private nonprofit corporation would be the entity charged with developing and supporting guardianship programs throughout the state.

"The governor also stated that rather than improving the guardianship process, the bill 'complicates the existing system.' This statement is inaccurate. There is no guardianship system in Texas today. No state agency or entity has statutory responsibility for coordinating or delivering guardianship services. Most areas of the state do not have a guardianship program. The bill vetoed by Gov. Bush addressed the need to establish a coordinated system of local guardianship programs."

NOTES: SB 103 was analyzed in Part Two of the May 23 *Daily Floor Report*.